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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/612,287

07/03/2003

Horst Corduan

LINDE-597 P1

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09/18/2006

EXAMINER

DOERRLER, WILLIAM CHARLES

MILLEN, WHITE, ZELANO & BRANIGAN, P.C.
2200 CLARENDON BLVD.
SUITE 1400
ARLINGTON, VA 22201

ART UNIT

PAPER NUMBER

3744

DATE MAILED: 09/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/612,287

Applicant(s)

CORDUAN ET AL.

Examiner

William C. Doerrler

Art Unit

3744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 August 2006.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☒ Claim(s) 22 is/are allowed.
6) ☒ Claim(s) 1, 3, 5, 6 and 8-21 is/are rejected.
7) ☒ Claim(s) 2, 4, 7 and 8 is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 31 May 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,3,5,6,9-11,15,16 and 19-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Goto.

Goto in figure 6 shows a heat exchanger with separate flow areas for three fluids which do not extend across the entire width of the heat exchanger (each of the three fluids which leave the top pass through one third of the width). All fluids in the heat exchanger flow parallel to each other, and are separated by a flow separator. Figure 8 shows inclined plates at the top and bottom of a flow path to control fluid flow. Goto is readable on the claims since applicant has not specifically defined width. Goto's fluids extend throughout the length of the heat exchanger, which applicant has clearly claimed. Goto's fluids also pass only through a part of a direction perpendicular to the length, seen by the examiner as width.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 12-14, 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goto.

Goto discloses applicants' basic inventive concept, a heat exchanger with parallel flow for the fluids with multiple fluids passing through flow areas which do not extend across the entire width of the heat exchanger, substantially as claimed with the exception of the pressure that the heat exchanger functions and the amount of fluids which pass through the heat exchanger. The pressure of the heat exchanger is seen as a matter of obvious design choice for an ordinary practitioner in the art depending on the situation which the heat exchanger is used for. The amount of fluids passing through the heat exchanger is also seen as a matter of obvious design choice for an ordinary practitioner in the art depending on the apparatus the heat exchanger is used in since Goto teaches a heat exchanger with parallel flow and flow areas for each fluid which do not extend across the entire width of the heat exchanger.

Allowable Subject Matter

Claims 2,4,7 and 8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 22 is allowed.

Response to Arguments


Applicant's arguments filed 8-23-2006 have been fully considered but they are not persuasive. Applicant states that the fluids of Goto all pass through the entire width of the heat exchanger. While it is true that the fluids pass through the entire dimension of the heat exchanger perpendicular to the length, it is not clear why this dimension cannot be called the depth. Since applicant has only clearly defined length in the rejected claims, which dimension is width and which is depth, is seen as arbitrary. Goto shows fluids which only pass through a portion of a dimension which is perpendicular to length. If the fluid is seen to pass across the entire depth, then each fluid passes through only a portion of the width.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William C. Doerrler whose telephone number is (571) 272-4807. The examiner can normally be reached on Monday-Friday 6:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cheryl Tyler can be reached on (571) 272-4834. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


William C Doerrler
Primary Examiner
Art Unit 3744

WCD